

Joseph R. Saveri (*pro hac vice*)
JOSEPH SAVERI LAW FIRM, INC.
555 Montgomery Street, Suite 1210
San Francisco, California 94111
Telephone: (415) 500-6800
Facsimile: (415) 395-9940
jsaveri@saverilawfirm.com

Richard A. Koffman (*pro hac vice*)
COHEN MILSTEIN SELLERS & TOLL, PLLC
1100 New York Ave., N.W., Suite 500, East Tower
Washington, DC 20005
Telephone: (202) 408-4600
Facsimile: (202) 408 4699
rkoffman@cohenmilstein.com

Eric L. Cramer (*pro hac vice*)
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103
Telephone: (215) 875-3000
Facsimile: (215) 875-4604
ecramer@bm.net

*Attorneys for Individual and Representative Plaintiffs
Cung Le, Nathan Quarry, and Jon Fitch, Bradon Vera, Luis
Javier Vazquez, and Kyle Kingsbury*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Cung Le, Nathan Quarry, and Jon Fitch,
Bradon Vera, Luis Javier Vazquez, and Kyle
Kingsbury, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

Zuffa, LLC, d/b/a Ultimate Fighting
Championship and UFC,

Defendant.

No.: 2:15-cv-01045-RFB-(PAL)

DECLARATION OF NATHAN QUARRY

1 I, Nathan Quarry, declare and state as follows:

2 1. I am a named plaintiff and a class representative in *Le, et al. v. Zuffa, LLC*, Case No. 2:15-
3 cv-01045-RFB-PAL (D. Nev.). I am over 18 years of age and have personal knowledge of the facts stated
4 in this Declaration. If called as a witness, I could and would testify competently to them.

5 2. I make this declaration in opposition to Zuffa, LLC's ("Zuffa's") motion for partial
6 summary judgment.

7 3. I am a class representative and a member of the Identity Class.

8 4. My identity has been used since December 16, 2010, and continues to be used, in
9 promotions and services offered by the Ultimate Fighting Championship ("UFC").

10 5. Prior to signing my first contract with Zuffa to fight in the UFC, beginning in or about
11 January 17, 2005, I appeared in a reality television series created by Zuffa called "The Ultimate Fighter
12 Season 1." After The Ultimate Fighter, I signed a contract with Zuffa to fight in the UFC. I first fought
13 a bout in the UFC on June 4, 2005. From June 4, 2005 to March 31, 2010 dates, I fought nine fights in
14 the UFC, including a fight for the UFC Middleweight Championship against Rich Franklin on
15 November 19, 2005 during "UFC 56." In my career in the UFC, I won six fights and lost three.

16 6. For many years, the UFC used footage of my fight with Rich Franklin as part of the
17 introduction to its Pay-Per View ("PPV") events. I personally observed footage from this fight in the
18 UFC's PPV introductions on multiple occasions after December 16, 2010. As far as I know, the UFC
19 continued to use this footage in the introduction to its PPV events into 2015. I received no
20 compensation in connection with the UFC's usage of this footage.

21 7. Footage from my fight with Rich Franklin appears in a video compilation, "Top 20
22 Knockouts in UFC History." The UFC published this video in November 2013. I received no
23 compensation in connection with the use or publication of this video.

24 8. I am familiar with the UFC's Fight Pass service. Fight Pass is a subscription service that
25 Zuffa created in or about December 2013. All of the bouts I fought in the UFC can be viewed in their
26 entirety on the UFC's Fight Pass service. A bout I fought in the finale of The Ultimate Fighter Season 1
27 can be viewed in its entirety on Fight Pass. A bout that I fought in February 2003, as part of an event
28 known as Gladiator Challenge 14, can be viewed on Fight Pass. On information and belief, consumers

1 have paid Zuffa for the ability to view fights, including my fights, on Fight Pass after December 16,
2 2010. I have never received any type of compensation for Zuffa's use of my image or likeness on the
3 UFC's Fight Pass service.

4 9. After December 16, 2010 Zuffa sold videos of my UFC fights through business partners
5 such as Amazon, Sony, and Xbox. I never received any compensation in connection with sales of these
6 videos.

7 10. In January 2012, Zuffa published a video of my fight with Demian Maia on the UFC's
8 website. I received no compensation in connection with the posting of those videos.

9 11. Footage of my fight with Lodune Sincaid in the finale of The Ultimate Fighter Season 1
10 appears in episode Number 102 of "UFC Unleashed." Footage of my fight with UFC Fighter Shonnie
11 Carter appears in episode Number 107 of "UFC Unleashed." I received no compensation in connection
12 with either of those episodes of "UFC Unleashed."

13 12. My photograph appears in a story published by UFC called "16 Bizarre Moments in
14 UFC History." I received no compensation for the use of this photograph.

15 13. A photograph of me appears in a story on the UFC's website entitled "Behind the Lens:
16 UFC Photog's Favorite KOs." I received no compensation for the use of this photograph.

17 14. Zuffa has exploited and continues to exploit my identity and likeness since December
18 2010, and continues to do so to this day, in products licensed by the UFC.

19 15. I autographed posters promoting the UFC 56 event that featured my photograph. These
20 posters were made to promote and commemorate UFC 56, including my fight with Rich Franklin for the
21 UFC Middleweight Championship. As of March 22, 2017 these posters are available for sale on the
22 website "ufcstore.com" for \$999.99 and \$1149.99 each. I have never received any compensation in
23 connection with sales of these autographed posters.

24 16. Photographs of me have been used by Topps in connection with UFC trading cards. My
25 image appears in the "2010 Topps UFC Knockout" series, and the "2013 Topps UFC Knockout"
26 series as part of the "Ultimate Knockout Relics Set." I do not recall ever being paid any compensation
27 for these Topps cards.
28

1 17. I am aware that Zuffa has made photographs of me available for sale through Getty
2 Images, an online photography website where photographs are available for purchase by the public,
3 since December 2010. I do not know how many times my photographs have been purchased, nor how
4 much revenue Zuffa received from these sales. As explained below, I have seen a document that
5 references two “units sold” of “commercial images” by Getty Images in 2013.

6 18. In 2014, Zuffa licensed UFC fighters’ identities to Reebok, and Reebok began offering
7 UFC jerseys for sale that featured names of current and retired UFC Fighters. I was never compensated
8 in connection with the Reebok UFC jerseys.

9 19. I have reviewed the document, attached hereto as Exhibit 1. It is my understanding that
10 this document was produced to Zuffa by Plaintiffs by in this matter. This document appears to reflect
11 royalty amounts that were credited to me between 2011 and 2013. I was never informed that Zuffa was
12 using my identity, likeness, or image for any of specific purpose at any time between 2011 and 2013.
13 Zuffa has not explained to me what these amounts were for, and has provided no accounting for the use
14 of my likeness or identity in connection with this document. I never received compensation
15 corresponding to the amounts identified here at any time between 2011 and 2013, or since then.
16 Moreover, and in any event, it is my opinion that whatever amounts Zuffa may or may not have credited
17 to me for the use of my likeness or image since December 2010 are artificially low due to the ongoing
18 anticompetitive scheme alleged in this case.

19 20. I have reviewed page two of Exhibit 1, and the reference to “Getty Images.” Zuffa has
20 never explained to me how it accounts for sales of my photographs available for sale through Getty
21 Images, nor has Zuffa informed me of occasions when it has sold my images in this way. Zuffa has
22 provided me no accounting for such sales. I never received compensation corresponding to royalties
23 from sales of photographs by Zuffa through Getty Images in June 2011, in 2013, or thereafter.

24 21. I have reviewed page two of Exhibit 1, and the reference to “Trading Cards.” Zuffa has
25 never explained to me that it has made any direct or indirect sales of trading cards with my likeness or
26 image, and has provided no accounting for such sales. I never received compensation corresponding to
27 royalties from sales of trading cards by Zuffa in 2013 or thereafter.
28

1 22. I have reviewed Exhibits H and I to Zuffa's motion. I do not recall whether I received
2 \$2500 from Zuffa in June 2009. I do not know why I was paid this money, if indeed I was. It was not
3 my understanding that I was being paid this amount in order to compensate me for all future uses of my
4 image or likeness, and in any event, it is my opinion that this amount is below the level that Zuffa
5 would have paid had it not engaged in the anticompetitive scheme alleged in this case.

6 I declare under penalty of perjury and the laws of the United States that the foregoing is true
7 and correct and this Declaration is executed at 12 pm on March 24, 2017.

8
9 By:


Nathan Quarry

EXHIBIT 1 TO THE DECLARATION OF NATHAN QUARRY

Nathan Quarry
4211 Woodside Circle
Lake Oswego, OR 97035

Licensee: Zuffa, LLC

Contract Reference: Merchandise Rights Agreement Statement Date: December 31, 2013



Report Period	Zuffa Gross Revenue Received - 10%			Zuffa Gross Royalty Revenue Received - 20%			Royalty Grand Total
	Revenue	Fighter Royalty Rate	Total	Revenue	Fighter Royalty Rate	Total	
1ST QUARTER 2008	\$ -	10%	\$ -	\$ -	20%	\$ -	\$ -
2ND QUARTER 2008	\$ -	10%	\$ -	\$ -	20%	\$ -	\$ -
3RD QUARTER 2008	\$ -	10%	\$ -	\$ -	20%	\$ -	\$ -
4TH QUARTER 2008	\$ -	10%	\$ -	\$ -	20%	\$ -	\$ -
1ST QUARTER 2009	\$ -	10%	\$ -	\$ -	20%	\$ -	\$ -
2ND QUARTER 2009	\$ -	10%	\$ -	\$ -	20%	\$ -	\$ -
3RD QUARTER 2009	\$ -	10%	\$ -	\$ -	20%	\$ -	\$ -
4TH QUARTER 2009	\$ -	10%	\$ -	\$ -	20%	\$ -	\$ -
1ST QUARTER 2010	\$ 1.33	10%	\$ 0.13	\$ 98.88	20%	\$ 19.74	\$ 1987
2ND QUARTER 2010	\$ 4.18	10%	\$ 0.42	\$ (0.91)	20%	\$ (0.18)	\$ 024
3RD QUARTER 2010	\$ 1.89	10%	\$ 0.19	\$ 34.14	20%	\$ 6.83	\$ 702
4TH QUARTER 2010	\$ 0.79	10%	\$ 0.08	\$ (3.25)	20%	\$ (0.65)	\$ (057)
1ST QUARTER 2011	\$ 1.26	10%	\$ 0.13	\$ (9.71)	20%	\$ (1.94)	\$ (182)
2ND QUARTER 2011	\$ -	10%	\$ -	\$ -	20%	\$ -	\$ -
3RD QUARTER 2011	\$ -	10%	\$ -	\$ (2.50)	20%	\$ (0.50)	\$ (050)
4TH QUARTER 2011	\$ -	10%	\$ -	\$ (0.12)	20%	\$ (0.02)	\$ (002)
1ST QUARTER 2012	\$ -	10%	\$ -	\$ (0.14)	20%	\$ (0.03)	\$ (003)
2ND QUARTER 2012	\$ -	10%	\$ -	\$ (0.43)	20%	\$ (0.09)	\$ (009)
3RD QUARTER 2012	\$ -	10%	\$ -	\$ 1.20	20%	\$ 0.24	\$ 024
4TH QUARTER 2012	\$ -	10%	\$ -	\$ 25.00	20%	\$ 5.00	\$ 500
1ST QUARTER 2013	\$ -	10%	\$ -	\$ -	20%	\$ -	\$ -
2ND QUARTER 2013	\$ -	10%	\$ -	\$ -	20%	\$ -	\$ -
3RD QUARTER 2013	\$ -	10%	\$ -	\$ 50.00	20%	\$ 10.00	\$ 1000
4TH QUARTER 2013	\$ 0.77	10%	\$ 0.08	\$ -	20%	\$ -	\$ 008
TOTALS =	\$ 10.22		\$ 1.02	\$ 191.96		\$ 38.39	\$ 3941

ZUFFA

PAYMENT SCHEDULE:	Amount Due	Paid Date	Check #	Amount Paid
Royalty Advance	\$ 2,500.00	5-Mar-09	51080	\$ 2,500.00
TOTALS =	\$ 2,500.00			\$ 2,500.00

Approved By: 

Advance Balance \$ (2,460.19)

Nathan Quarry
 4211 Woodside Circle
 Lake Oswego, OR 97035

Licensee: ZUFFA, LLC

Contract Reference: Merchandise Rights Agreement

Vendor Name/Event	Quarter Sold	Item Description	Units Sold	Gross Revenue	Gross Royalty Revenue	Rate	Royalty Amt
Getty Images	Q3 2013	Commercial Image	2		\$ 50.00	20%	\$ 10.00
UFC Direct Sales	Q4 2013	Trading Cards	50	\$ 0.77		10%	\$ 0.08
							\$ -
				TOTALS =	\$ 50.77		\$ 10.08
REPORT TOTAL =							\$ 10.08